

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

JUDGE OETKEN

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Jean Joseph,

Plaintiff,

-against-

Zenith Acquisition Corp.,

Defendant(s).
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Civil Action No.:

11 CV 9519
ECF Case - JPO

**COMPLAINT AND
DEMAND FOR TRIAL BY JURY**

Plaintiff Jean Joseph ("Plaintiff" or "Joseph"), by and through his attorneys, FREDRICK SCHULMAN & ASSOCIATES, Attorneys at Law, as and for his Complaint against the Defendant Zenith Acquisition Corp. ("Defendant" or "ZENITH"), respectfully sets forth, complains and alleges, upon information and belief, the following:

INTRODUCTION/PRELIMINARY STATEMENT

1. Plaintiff brings this action for damages and declaratory and injunctive relief arising from the Defendant's violation(s) of Sec. 1692 et. seq. of Title 15 of the United States Code, commonly referred to as the Fair Debt Collections Practices Act ("FDCPA").

PARTIES

2. Plaintiff is a resident of the State of New York, County of Rockland, residing at 5 Oakdale Manor, Suffern, New York 10901.

3. Defendant is a collection firm with a principal place of business at 170 Northpointe Parkway, Suite 300, Amherst, New York 14228, and, upon information and belief, is authorized to do business in the State of New York.

4. Defendant is a "debt collector" as the phrase is defined and used in the FDCPA.

JURISDICTION AND VENUE

5. The Court has jurisdiction over this matter pursuant to 28 USC Sec. 1331, as well as 15 USC Sec. 1692 et. seq. and 28 USC sec. 2201. If applicable, the Court also has pendent jurisdiction over the State law claims in this action pursuant to 28 USC Sec. 1367(a).

6. Venue is proper in this judicial district pursuant to 28 USC Sec. 1391(b)(2).

FACTUAL ALLEGATIONS

7. Plaintiff repeats, reiterates and incorporates the allegations contained in paragraphs numbered "1" through "6" herein with the same force and effect as if the same were set forth at length herein.

8. Upon information and belief, on a date better known to Defendant, Defendant began collection activities on an alleged consumer debt from the Plaintiff ("Alleged Debt").

9. On or about September 13, 2011 at approximately 3:45 pm, Defendant left a voicemail for Plaintiff with respect to the Alleged Debt. In that communication, the Defendant failed to state that it was a debt collector, attempting to collect a debt and that any information would be used for that purpose. Defendant also failed to disclose its company name.

10. Said failure on the part of defendant is also a violation of the FDCPA, 15 USC Sec. 1692e(11).

11. Said failure on the part of defendant is also a violation of the FDCPA, 15 USC Sec. 1692e(14).

12. As a result of Defendant's deceptive, misleading and unfair debt collection practices, Plaintiff has been damaged.

FIRST CAUSE OF ACTION
(Violations of the FDCPA)

13. Plaintiff repeats, reiterates and incorporates the allegations contained in paragraphs numbered "1" through "12" herein with the same force and effect as if the same were set forth at length herein.

14. Defendant's debt collection efforts attempted and/or directed towards the Plaintiff violate various provisions of the FDCPA, including but not limited to 15 USC Sec. 1692e(11) and 15 USC Sec. 1692e(14).

15. As a result of Defendant's violations of the FDCPA, Plaintiff has been damaged and is entitled to damages in accordance with the FDCPA.

DEMAND FOR TRIAL BY JURY

16. Plaintiff demands and hereby respectfully requests a trial by jury for all claims and issues this complaint to which plaintiff is or may be entitled to a jury trial.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff Jean Joseph demands judgment against the Defendant Zenith Acquisition Corp., as follows:

- A. For actual damages provided and pursuant to 15 USC Sec. 1692k(a)(1);
- B. For statutory damages provided and pursuant to 15 USC Sec. 1692k(a)(2)(A);
- C. For attorneys' fees and costs provided and pursuant to 15 USC Sec. 1692k(a)(3);
- D. A declaration that the Defendants' practices violated the FDCPA; and,
- E. For any such other and further relief, as well as further costs, expenses and disbursements of this action, as this Court may deem just and proper.

Dated: New York, New York
December 19, 2011

Respectfully submitted,

By: 

Samuel A. Ehrenfeld

FREDRICK SCHULMAN & ASSOCIATES

Attorneys at Law

Attorney for Plaintiff

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